

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

HENNA CARDENAS, individually and  
on behalf of all others similarly situated,

Plaintiff,

v.

SPINNAKER RESORTS, INC., a  
Florida Corporation,

Defendant.

Case No. 2:16-cv-02466 (JLL)(JAD)

**PLAINTIFF’S MOTION TO FILE UNDER SEAL  
DOCUMENTS SUPPORTING OPPOSITION TO  
DEFENDANT’S MOTION TO DISMISS**

**I. INTRODUCTION**

This case challenges Defendant Spinnaker Resorts, Inc.’s (“Defendant” or “Spinnaker”) persistent and harassing unsolicited telemarketing calls to consumers across the country. In the process, Spinnaker serially violates the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (“TCPA”), by calling the landline phones of thousands of consumers who, like Plaintiff Henna Cardenas (“Plaintiff” or “Cardenas”), placed their numbers on the national Do Not Call Registry and yet kept getting called after they asked Spinnaker to stop calling them.

On the same date as the filing of this Motion, Plaintiff will file her Opposition to Defendant's Motion to Dismiss for Lack of Personal Jurisdiction. Plaintiff's Opposition will rely, in part, on certain documents provided to Plaintiff by Defendant during discovery which have been marked by Defendant as "ATTORNEY'S EYES ONLY – SUBJECT TO CONFIDENTIALITY ORDER." According to the Discovery Confidentiality Order entered in this case(Dkt. 19), this marking indicates that the records contain "highly sensitive business or personal information, the disclosure of which is highly likely to cause significant harm to" Defendant Spinnaker. For these reasons, and to protect Plaintiff from violating the Confidentiality Order, Plaintiff respectfully requests that the Court issue an Order permitting the filing under seal of eighteen pages of Exhibit A to Plaintiff's Opposition.

## **II. LEGAL ARGUMENT**

F.R.C.P. 5.2(d) states: "The court may order that a filing be made under seal without redaction. The court may later unseal the filing or order the person who made the filing to file a redacted version for the public record." Local Civil Rule 5.3(c) provides that a motion to file under seal must describe (a) the nature of the materials or proceedings at issue, (b) the legitimate private or public interests which warrant the relief sought, (c) the clearly defined and serious injury that

would result if the relief sought is not granted, and (d) why a less restrictive alternative to the relief sought is not available.

Plaintiff will be filing her Response in Opposition to Defendant's Motion to Dismiss on the same date as the filing of the instant Motion to File Under Seal. To be included as Exhibit A to Plaintiff's Opposition brief are certain documents produced by Defendant in discovery that Defendant has labeled attorneys'-eyes only. The documents labeled attorneys'-eyes only are critical to Plaintiff's position that Spinnaker may be held liable as the principal of its agents. If this Motion is not granted, and the attorneys'-eyes only documents are made available to the public, Plaintiff could be seen to have violated the Parties' Confidentiality Order. A less restrictive alternative to the relief sought is not available, as Plaintiff will rely on the attorneys'-eyes only documents in her Opposition to Defendant's Motion to Dismiss.

Plaintiff respectfully requests that the Court enter an Order allowing the relevant attorneys'-eyes only documents to be filed under seal. Should the Court desire, the documents can be made available to the Court for *in camera* review.

Respectfully Submitted,

Dated: July 3, 2017

**HENNA CARDENAS**, individually, and on behalf of all others similarly situated,

By: /s/ Stefan Coleman  
One of Plaintiff's Attorneys

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*Counsel for Plaintiff and the Putative  
Classes*

*\*pro hac vice*

### **Certificate of Service**

I hereby certify that, on the date indicated below, the foregoing document (and any attachments or accompanying documents) was served via the Court's CM/ECF System on counsel for all parties who have appeared in this matter.

/s/ Stefan Coleman  
Dated: July 3, 2017